



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,045	12/02/2003	Larry P. Bayer	9535.18382	2674

26308 7590 07/14/2005

RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

EXAMINER

NGUYEN, JOHN QUOC

ART UNIT PAPER NUMBER

3654

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/726,045

Applicant(s)

BAYER ET AL.

Examiner

John Q. Nguyen

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8, 16-19, 22-26 and 29-40 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 9-15, 20, 21, 27 and 28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/19/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Art Unit: 3654

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-40 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Throughout the claims, such as claim 1, “radially” appears to be misused since it can only be in reference to something round; since nothing has been recited to have a round shape, the word “radially” has little meaning. Furthermore, all recitations of “radially” should logically refer to the same direction or plane and this is not the case in the claims, such as the “radially” on lines 7 and 9 of claim 1. It is suggested that – perpendicular—be used, when appropriate.

All claims should be revised carefully to correct all other deficiencies similar to the ones noted above.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Breary (US-1018550). Note the mast 15, support arm 21/22, retaining arm 27.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Breary (US-1018550) in view of Patton (US-6655627).

Patton discloses another similar apparatus in which a guide stand 66 with a guide window is provided to guide the elongate member. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Breary with a guide stand as taught by Patton to guide the elongate member from the spool.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloud (US-2620144) in view of Breary (US-1018550).

Cloud discloses an apparatus having substantially all the claimed features including mast 18, support arms A, retaining arms F. Cloud does not disclose that the mast is pivotally connected to a base. Breary, as advanced above, discloses a mast pivoted to a base and a lid 12 hinged to the base. It would have been obvious to a person having ordinary skill in the art to provide the mast of Cloud as being pivoted as taught by Breary so that the base can conveniently serve as a support for the mast and with a hinged lid as taught by Breary to enclose the apparatus to protect it from the environment when not in use.

Art Unit: 3654

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cloud in view of Breary as applied to claims 1-4 above, and further in view of Patton (US-6655627).

Patton discloses another similar apparatus in which a guide stand 66 with a guide window is provided to guide the elongate member. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Cloud modified as above with a guide stand as taught by Patton to guide the elongate member from the spool.

Claims 5, 16-19, 23-26, 30, 32-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloud in view of Breary as applied to claims 1-4 above, and further in view of Branback (US-Re. 34376).

Branback discloses a guide bar 27 to continuously rest on the spooled material. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Cloud modified as above with a guide bar as taught by Branback to rest on the material and prevent tangling while unwinding. The provision of wheels and a handle to the box would have been obvious to one of ordinary skill in the art to facilitate handling of the box; wheels and handle on a box/enclosure being old and well known in the art and Official Notice of such is hereby taken.

Claims 22, 29, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloud in view of Breary and Branback as applied to claims 5, 16-19, 23-26, 30, 32-40 above, and further in view of Patton (US-6655627).

Patton discloses another similar apparatus in which a guide stand 66 with a guide window is provided to guide the elongate member. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Cloud modified as above with a guide stand as taught by Patton to guide the elongate member from the spool.

Claims 16, 23, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloud (US-2620144) in view of Branback (US-Re. 34376).

Cloud and Branback have been advanced above. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Cloud with a guide bar as taught by Branback to rest on the material and prevent tangling while unwinding.

Claims 6, 7, 9-15, 20, 21, 27, 28 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. The prior art of record does not show or render obvious an apparatus as recited in claims 6, 9, 20, 27.

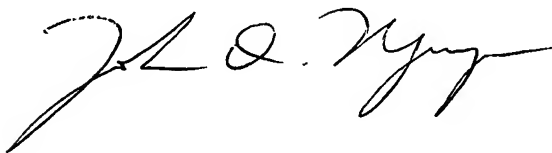
Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Q. Nguyen whose telephone number is (571) 272-

Art Unit: 3654.

6952. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday, from 7:00 AM to 4:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki, can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "John Q. Nguyen". The signature is fluid and cursive, with the first name "John" and last name "Nguyen" clearly distinguishable.

John Q. Nguyen
Primary Examiner
Art Unit 3654